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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/903,163 | 07/11/2001 | Taro Suito | 275762US6 | 2156 |
| 22850 | 7590 | 10/19/2005 | EXAMINER | |
| OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314 | | | NGUYEN, HUY THANH | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2616 | |

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/903,163

Applicant(s)

SUITO ET AL.

Examiner

HUY T. NGUYEN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 1-4 and 8-9 are objected to because of the following informalities:

Before "CM" being recited in claims 1-4 and 8-9 should be inserted -- commercial message--.

It is not clear to what "it", line 4, claim 2, and "its", line 4, claim 4, being referencing .

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 –9 are rejected under 35 U.S.C. 102(b) as being anticipated by Suito et al (JP-10-224722, US 6,285,818 B1 is a family member of JP-10-224722 is used as English translation for JP-10-224722).

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Regarding claim 1, Suito discloses a broadcast signal recording and playback apparatus (Fig. 1,2 and 8, column 4) for recording and playing back a television broadcast signal onto and from an information recording medium, comprising:

sound absence period detection means for detecting a sound absence period of an audio signal included in the television broadcast signal (column 4, lines 40-55, column 1, lines 45-55);

audio mode detection means for detecting an audio mode of the audio signal of the television broadcast signal (column 4, lines 25-32) ;

scene changing point detection means for detecting a scene changing point of a video signal included in the television broadcast signal;

scene changing point distance measurement means for measuring the distance between scene changing points successively detected by said scene changing point detection means (column 4, lines 15-25);

CM detection means for using at least one of the sound absence period, the audio mode and the distance between scene changing points as a parameter to detect a CM included in the television broadcast signal (column 4, lines 14-30;

CM detection control means (7) for controlling said CM detection means;
sound absence period detection control means for controlling said sound absence period detection means (column 4, lines 40-47; and

initialization means for initializing the parameter or parameters (column 6, lines 5-68).

Method claims 8-9 correspond to apparatus claim 1. The method claims 8-9 are rejected by the same reason as applied to apparatus claim 1.

Further for claim 9, Suito teaches a medium stored with program since Suito teaches that detecting commercial is controlled by a computer processor)

Regarding claim 2, A broadcast signal recording and playback apparatus according to claim 1, wherein said CM detection control means limits the processing of said CM detection means when it is known that the television broadcast signal includes no CM (column 5, lines 65 to column 6, line 45).

Regarding claim 3, Suito further teaches the broadcast signal recording and playback apparatus according to claim 1, wherein said CM detection control means limits the processing of said CM detection means when the television broadcast signal has a low signal level (column 5, lines 65 to column 6, line 45)

Regarding claim 4, Suito further teaches the broadcast signal recording and playback apparatus according to claim 1, wherein said CM detection control means controls said CM detection means to start its processing before recording of the television broadcast signal is started (column 6).

Regarding claim 5, Suito teaches the broadcast signal recording and playback apparatus according to claim 1, wherein said sound absence period detection control means limits the processing of said sound absence period detection means at a predetermined point of time (column 6 lines 1-10, column 1, line 45-55)

Regarding claim 6, Suito further teaches the broadcast signal recording and playback apparatus according to claim 1, wherein said initialization means initializes the

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parameter or parameters when discontinuity occurs with the television broadcast signal (column 6).

Regarding claim 7, Suito further teaches the broadcast signal recording and playback apparatus according to claim 1, wherein said initialization means restores the initialized parameter or parameters when the television broadcast signal recovers after discontinuity occurs with the television broadcast signal (column 6).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N

HUY T. NGUYEN
PRIMARY EXAMINER